

Internal Revenue Service, Treasury

§ 1.77-2

(2) Subparagraph (1) of this paragraph may be illustrated by the following example:

Example. Z, a dealer in securities who values his inventories on the basis of cost, makes his income tax returns on the calendar year basis. On January 1, 1954, he buys, for \$1,060 each, three municipal bonds (I, J,

and K) having a face obligation of \$1,000, and maturing on January 1, 1959. Bond I is sold on December 31, 1954, bond J is sold on June 30, 1955, and bond K is sold on December 31, 1956. For each bond, the amortizable bond premium to maturity is \$60, the period from the date of acquisition to maturity is 60 months, and the amortizable bond premium per month is \$1.

Bond	Date acquired	Date sold	Adjustment for—		
			1954	1955	1956
I	Jan. 1, 1954	Dec. 31, 1954	\$12
J	Jan. 1, 1954	June 30, 1955	None	\$18
K	Jan. 1, 1954	Dec. 31, 1956	None	None	\$36

(d) *Bonds acquired before July 1, 1950.* Under section 203(c) of the Revenue Act of 1950, adjustment is required for a municipal bond acquired before July 1, 1950, only with respect to taxable years beginning on or after that date. Accordingly, if the municipal bond was acquired before July 1, 1950, then for purposes of section 75 the amortizable bond premium under section 171 must be computed after adjusting the bond premium to the extent proper to reflect unamortized bond premium for so much of the holding period (as determined under section 1223) as precedes the taxable year of the dealer beginning on or after July 1, 1950. Thus, in example (1) of paragraph (b) and in the example in paragraph (c) of this section, the first taxable year beginning on or after July 1, 1950, is, for each dealer, the taxable year beginning January 1, 1951. If each dealer had purchased for \$1,060 on April 1, 1950, a municipal bond having a face obligation of \$1,000 and maturing April 1, 1955, and had sold such bond on February 28, 1955, the adjustment under section 75 would be computed as follows:

	Dealer X	Dealer Z
Bond premium	\$60	\$60
Adjustment for holding period prior to Jan. 1, 1951	9	9
Amortizable bond premium to maturity, as adjusted	51	51
Amortizable bond premium per month ..	1	1
Total adjustments under sec. (o), 1939 Code, for years 1951-53	36	None
Adjustment under sec. 75 for 1954	12	None
Adjustment under sec. 75 for 1955	2	50

[T.D. 6647, 28 FR 3519, Apr. 11, 1963]

§ 1.77-1 Election to consider Commodity Credit Corporation loans as income.

A taxpayer who receives a loan from the Commodity Credit Corporation may, at his election, include the amount of such loan in his gross income for the taxable year in which the loan is received. If a taxpayer makes such an election (or has made such an election under section 123 of the Internal Revenue Code of 1939 or under section 223(d) of the Revenue Act of 1939 (53 Stat. 897)), then for subsequent taxable years he shall include in his gross income all amounts received during those years as loans from the Commodity Credit Corporation, unless he secures the permission of the Commissioner to change to a different method of accounting. Application for permission to change such method of accounting and the basis upon which the return is made shall be filed with the Commission of Internal Revenue, Washington, D.C. 20224, within 90 days after the beginning of the taxable year to be covered by the return.

§ 1.77-2 Effect of election to consider commodity credit loans as income.

(a) If a taxpayer elects or has elected under section 77, section 123 of the Internal Revenue Code of 1939, or section 223(d) of the Revenue Act of 1939 (53 Stat. 897), as amended, to include in his gross income the amount of a loan from the Commodity Credit Corporation for the taxable year in which it is received, then—

(1) No part of the amount realized by the Commodity Credit Corporation

upon the sale or other disposition of the commodity pledged for such loan shall be recognized as income to the taxpayer, unless the taxpayer receives an amount in addition to that advanced to him as the loan, in which event such additional amount shall be included in the gross income of the taxpayer for the taxable year in which it is received, and

(2) No deductible loss to the taxpayer shall be recognized on account of any deficiency realized by the Commodity Credit Corporation on such loan if the taxpayer was relieved from liability for such deficiency.

(b) The application of paragraph (a) of this section may be illustrated by the following example:

Example. A, a taxpayer who elected for his taxable year 1952 to include in gross income amounts received as loans from the Commodity Credit Corporation, received as loans \$500 in 1952, \$700 in 1953, and \$900 in 1954. In 1956 all the pledged commodity was sold by the Commodity Credit Corporation for an amount \$100 and \$200 less than the loans with respect to the commodity pledged in 1952 and 1953, respectively, and for an amount \$150 greater than the loan with respect to the commodity pledged in 1954. A, in making his return for 1956, shall include in gross income the sum of \$150 if it is received during that year, but will not be allowed a deduction for the deficiencies of \$100 and \$200 unless he is required to satisfy such deficiencies and does satisfy them during that year.

§ 1.78-1 Dividends received from certain foreign corporations by certain domestic corporations choosing the foreign tax credit.

(a) *Taxes deemed paid by certain domestic corporations treated as a section 78 dividend.* Any reduction under section 907(a) of the foreign income taxes deemed to be paid with respect to foreign oil and gas extraction income does not affect the amount treated as a section 78 dividend. If a domestic corporation chooses to have the benefits of the foreign tax credit under section 901 for any taxable year, an amount which is equal to the foreign income taxes deemed to be paid by such corporation for such year under section 902(a) in accordance with §§ 1.902-1 and 1.902-2 and § 1.902(b)(2), or under section 960(a)(1) in accordance with § 1.960-7, shall, to the extent provided by this section, be

treated as a dividend (hereinafter referred to as a section 78 dividend) received by such domestic corporation from the foreign corporation described in section 902(a) in accordance with §§ 1.902-1 and 1.902-2 or section 960(c)(1) in accordance with § 1.960-7, as the case may be. A section 78 dividend shall be treated as a dividend for all purposes of the Code, except that it shall not be treated as a dividend under section 245, relating to dividends received from certain foreign corporations, or increase the earnings and profits of the domestic corporation. For purposes of determining the source of a section 78 dividend in computing the limitation on the foreign tax credit under section 904, see § 1.902(h)(1) and the regulations under section 960. For special rules relating to the determination of the foreign tax credit under section 902 with respect to certain minimum distributions received from controlled foreign corporations and the effect of such rules upon the gross-up under section 78, see paragraph (c) of § 1.963-4. For rules respecting the reduction of foreign income taxes under section 6038(b) in applying section 902(a) in accordance with §§ 1.902-1 and 1.902-2 or section 960(c)(1) in accordance with § 1.960-7, where there has been a failure to furnish certain information and for an illustration of the effect of such reduction upon the amount of a section 78 dividend, see paragraph (l) of § 1.6038-2.

(b) *Certain taxes not treated as a section 78 dividend.* Foreign income taxes deemed paid by a domestic corporation under section 902(a) in accordance with §§ 1.902-1 and 1.902-2 or section 960(c)(1) in accordance with § 1.960-7, shall not, to the extent provided by paragraph (b) of § 1.960-3, be treated as a section 78 dividend where such taxes are imposed on certain distributions from the earnings and profits of a controlled foreign corporation attributable to an amount which is, or has been, included in gross income of the domestic corporation under section 951.

(c) *United Kingdom income tax included in gross income under treaty.* Any amount of United Kingdom income tax appropriate to a dividend paid by a corporation which is a resident of the United Kingdom shall not be treated as